

JUNE 2010

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INSIDE *ALEC*

A PUBLICATION OF THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL

 **FOCUS ON
PUBLIC SAFETY**

**ALEC Defends
Second Amendment**

**The National Popular Vote
Threatens Federalism**

**Principles to Improve
Corrections Policy on
Tight Budgets**

Beach House Bailouts

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GEORGIA

Working to Protect Public Safety

BY COURTNEY O'BRIEN

Len Walker, ALEC member and Georgia State Representative, recently introduced a bill based on ALEC's *Crimes with Bail Restrictions*, prohibiting a judge from releasing a violent offender onto the streets without a commercial surety bail bond. This bill has been enacted and creates a higher level of transparency in the court system and will increase the safety of Georgia citizens.

According to the Department of Justice, criminals released early, without the backing of a surety bail bond, have the highest Failure to Appear (FTA) rate among all other types of release. In other words, if arrested persons are released from jail with little to no accountability, without an insurance-backed (surety) bond that guarantees they show up for court or for other conditions of release, chances of a repeat offense increase. Unfortunately, because jail overcrowding is skyrocketing and state budgets are suffering, the haphazard release of violent criminals is becoming the norm rather than the exception. Representative Len Walker in Georgia has recently taken steps to correct the path Georgia was on, and his approach may serve as an example for other states.

Rep. Walker began to reset the course when it came to his attention that judges in Fulton County, Georgia were approving a large number of signature bonds for criminals who had committed serious, violent felonies. A signature bond is a bond that allows a criminal to sign their own signature at the bottom of the bond, releasing themselves without anyone to hold them accountable to their conditions of release. This bond is not backed by an insurance company and is considered an "unsecured" release. The city of Atlanta, Georgia houses the second highest number of fugitives in the country. In Fulton County, Georgia, "hundreds of violent felons were being

brought through the court process and being released on unsecured bond," Rep. Walker said.

Using this information Rep. Walker introduced a bill based on the ALEC model bill; *Crimes with Bail Restrictions*. The bill calls for courts to increase the use of secured, surety release and reduce the number of unsecured releases, especially for more serious crimes.

Other legislators interested in introducing this bill may be faced with some of the hurdles Rep. Walker encountered. For example, judges may feel that their authority is being compromised by a bill that dictates how a person may be released. To alleviate this issue, the Georgia bill was amended to continue to grant elected magistrate and superior court judges, and state court judges, to issue unsecured bonds as long as the judge produces a written court order listing why the judge believes the offender is suitable for unsecured release. According to Rep. Walker, "this creates a level of transparency to the public on who is being released on an unsecured bond and why the judge feels it is suitable. We should let the public know who is walking their streets and why."

For other legislators considering introducing this piece of legislation, Rep. Walker recommends researching court documents concerning the number of people released and the types of crimes of which they have been accused. Rep. Walker also suggests having conversa-



Len Walker currently serves as Georgia State Representative for District 107 and is a member of the Appropriations, Higher Education, and Rules Committees. He also serves on the Health Appropriations Sub-Committee. Rep. Walker is a member of ALEC.

tions with the council of judges in your state as to what is appropriate in the area of unsecured and secured bonds. Steps such as these can increase your chance of success when introducing this bill, ultimately helping to protect the citizens in your state: "In 99 percent of cases it is inappropriate to release someone on an unsecured bond who has committed a violent felony," Rep. Walker said. "This compromised the safety of every citizen within the state of Georgia." ■

Courtney O'Brien is the legislative assistant to ALEC's Commerce, Insurance, and Economic Development and Public Safety and Elections Task Forces.

ALEC Brief Defends Second Amendment

BY CHRIS W. COX, NRA Institute for Legislative Action

In a few short weeks, the Supreme Court will deliver a decision that will have a great impact on all Americans' Second Amendment rights. If the Court's decision is favorable, American gun owners will be on the verge of a major step forward—due in large part to the support of organizations like the American Legislative Exchange Council (ALEC) and its members.

In September 2009, the U.S. Supreme Court announced it would hear the case *McDonald v. City of Chicago*. McDonald is one of several cases that were filed immediately after the Supreme Court's 2008 decision in *District of Columbia v. Heller*, in which the Court struck down Washington, D.C.'s handgun ban and affirmed that the Second Amendment protects an individual right.

These follow-up cases were all aimed at the same goal: establishing that the Second Amendment forbids state and local governments (not just federal authorities) from infringing on the right to keep and bear arms. While most provisions of the Bill of Rights have been applied to the states through the Court's 14th Amendment "incorporation" doctrine, the Second Amendment is the biggest and most important exception. The plaintiffs in the *McDonald* case—and friends of the court such as ALEC and many of its individual members—are asking the Supreme Court to change that—once and for all.

A victory in *McDonald* will have a significant impact on how far state and local laws can go in restricting the right to keep and bear arms. On the other hand, a ruling that the Second Amendment doesn't apply to the states would leave those freedoms at risk at the state and local levels. Without fear of a Second

Amendment challenge, anti-gun groups would shift all their efforts to the state level—where they already have plenty of allies in states where constitutional provisions are weak or non-existent.

In Illinois, for example, the state constitution says that "Subject only to the police power, the right of the individual citizen to keep and bear arms shall not be infringed." The courts have held that this language is so weak that it doesn't forbid even the total handgun bans adopted in several Chicago suburbs.

Fortunately, most of those towns repealed their gun bans when the NRA sued them after the *Heller* decision. But Chicago, with more taxpayer dollars to spend, chose to defend its gun ban. The Chicago law is nearly identical to the Washington, D.C. law struck down in *Heller*, so it was the most logical target for a case on the incorporation issue. In fact, it was such a logical target that two cases were filed, and then consolidated for appeal.

Last June, the Seventh Circuit handed down its ruling in those cases. In its decision, that court skipped doing the kind of 14th Amendment incorporation analysis that the Supreme Court said was "required," and upheld the local bans.

The opinion also suggested that states are free to ban self-defense in the

home entirely, and that handguns could then be banned. Obviously, this flies in the face of the Supreme Court's statement in *Heller* that "the inherent right of self-defense has been central to the Second Amendment right."

The Seventh Circuit judges also ignored an excellent road map that would have shown them a better way. In April 2009, a three-judge panel of the Ninth Circuit ruled on *Nordyke v. King*, which involved a California gun show promoter's challenge to a county ban on firearm possession on county property. In his opinion in that case, Judge Diarmuid O'Scannlain concluded that since "the Right to Keep and Bear Arms is deeply rooted in this Nation's history and tradition," it's therefore incorporated into the 14th Amendment's Due Process Clause and applies to the states.

After the Seventh Circuit ruling, the plaintiffs filed their appeals with the Supreme Court, which agreed to hear the *McDonald* case.

During this time, support for incorporating the Second Amendment was demonstrated at many levels. Former U.S. Solicitor General Paul Clement—perhaps the finest Supreme Court advocate in the country today, with dozens of cases to his credit—authored an amicus brief on behalf of 251 members of the U.S. House of Representatives and 58 U.S. Senators, expressing

Chris W. Cox is the executive director of the NRA Institute for Legislative Action. The NRA is a member of ALEC's Public Safety and Elections Task Force.



strong opposition to state infringement of gun owners' rights. Clement later did an outstanding job representing NRA in oral arguments before the Supreme Court—especially in responding to the notion that the court could somehow apply only the “core” of a watered-down Second Amendment to the states.

Gun owners have also had the strong support of state legislators who took action in support of the effort. In December 2009, ALEC's Public Safety and Elections Task Force passed a resolution which subsequently became an ALEC model and included the following language:

THEREFORE BE IT FURTHER RESOLVED, that the American Legislative Exchange Council affirms that the state legislatures that ratified the Fourteenth Amendment understood the Amendment to incorporate the right of self-defense and the right to keep and bear arms against state and local infringement; and

THEREFORE BE IT FURTHER RESOLVED, that the American Legislative Exchange Council affirms that the Second

Amendment and the fundamental right of self-defense apply to Americans throughout the United States, regardless of where they live against state and local governments so as to prohibit their infringement of the right to keep and bear arms.

ALEC members' support for the right to keep and bear arms helps make the case that the decision to incorporate the Second Amendment is not only sound constitutionally, but also sound policy. Most state legislators are willing to work within the Constitution, and don't fear strong protections for citizens' rights.

Following up on ALEC's resolution, ALEC filed an amicus brief in the *McDonald* case, urging the Supreme Court to reverse the Seventh Circuit's flawed ruling. The brief, written by attorneys Rick A. Haberman and K. Scott Hamilton, eloquently showed the importance of Second Amendment protections:

“The historical record surveyed in Heller and Nordyke unmistakably reflects that Americans have always viewed their right to bear arms as a distinctive, funda-

mental and necessary instrument of their liberty. Indeed, as the Court of Appeals for the Ninth Circuit noted, ‘we have here both a right they [the colonists] fought for and the right that allowed them to fight.’”

In addition to the ALEC brief, over 800 individual state legislators—many of them ALEC members—also signed a separate brief, further showing that America's lawmakers embrace strong protections for the right to keep and bear arms at all levels of government.

The Supreme Court's decision is expected in late June, and all Americans who value our Second Amendment rights should be proud of the support from organizations like ALEC and from its individual members.

Yet even if we are victorious in the *McDonald* case, it is important to remember that at the day-to-day level, most Second Amendment issues will still be decided at the state level, in the legislatures rather than the courts. The support of ALEC and its thousands of members will continue to be crucial to protecting the right to keep and bear arms for generations to come. ■

States React to *Citizens United*

BY LAURA RENZ, Center for Competitive Politics

On Jan. 21, 2010, the U.S. Supreme Court handed down its ruling in *Citizens United v. Federal Election Commission*, dramatically altering the campaign finance landscape for political candidates. Previously silenced in many states; incorporated businesses, unions as well as advocacy organizations and trade associations will now be able to spend money directly from their general treasuries advocating the election or defeat of candidates for office.

While the full impact of this ruling will be unknown for several years, there is little doubt that the *Citizens United* ruling places candidates and political parties at a disadvantage in those states that limit the ability of candidates to raise funds. While candidates remain limited in their ability to raise funds to communicate their message, incorporated entities and unions face no such limit.

Prior to *Citizens United*, 26 states allowed corporations to spend without limit on political messaging. The remaining 24 states now must update their laws to reflect that the government cannot ban independent political speech. Beyond repealing laws that are now inconsonant with the Supreme Court's decision, we suggest states take broader, but modest, steps to enrich and transform the abilities of their citizens to engage in political discourse. For example, the Iowa Legislature, which had banned corporate expenditures, updated their regulations after *Citizens United* while respecting

First Amendment rights and established legal precedent.

We recommend states ease any coordination limits currently imposed on political parties and candidates. While these restrictions vary, the assumption that the influence between candidates and political parties is inherently corruptive is one that deserves reexamination.

Secondly, low contribution limits present significant challenges to candidates who must contend with independent spending that cannot be limited. Many contribution limits implemented years ago have not been indexed for inflation or population growth, and at the very least must be updated, if not eliminated entirely.

It is important to recognize that the rationale for limiting political expression in the form of contributions is also becoming more tenuous—evidence that contribution limits do not have an impact on corruption can be seen in recent research by the Center for Competitive Politics comparing states' limits to public corruption. This research found no relationship between contribution limits and corruption—in fact, the three least-corrupt states in the country were Iowa, Nebraska, and Oregon, all of which have no limits.

Additional research has revealed no correlation between contribution limits and how well a state is governed. The respected *Governing* magazine, a publication of Congressional Quarterly in conjunction with the Pew Center on the

States, periodically grades all 50 states on the quality of their management.

That report showed that in 2008, Utah, Virginia, and Washington tied for the top ranking with grades of A-. Utah and Virginia were also at the top of the magazine's last prior ranking, in 2005, with grades of A-. Utah and Virginia have no limits on the size or source of contributions—corporations and unions, for example, can contribute unlimited sums to campaigns, subject only to public disclosure.

More broadly, five of the 10 best rated states for government management permit unlimited individual contributions while nine of the 10 least well

26 states allowed corporations to spend without limit on political messaging prior to *Citizens United*.

governed states include limits on the size of campaign contributions.¹

The actual results of the differing campaign finance landscapes across the country should not be lost on lawmakers. While Congress has introduced the *DISCLOSE Act*, a thinly veiled attempt to undermine the Supreme Court's decision protecting important First Amendment rights, state lawmakers should take a hard look at their own state laws and the best ways to encourage discourse and competitive elections—by easing complex and restrictive laws on citizens and associations, and allowing an influx of speech into campaigns. ■



Laura Renz is the research and government relations director for the Center for Competitive Politics, a member of ALEC's Public Safety and Elections Task Force.

¹ One can find all of *Governing's* state report cards at <http://www.governing.com/gpp/index.htm>. Note that changes in methodology make comparisons of pre-2005 reports with 2005 and 2008 reports unreliable.

ALEC Takes a Strong Stand on Criminal Justice Reinvestment Models

BY REP. JERRY MADDEN (TX)

Texas has always been a tough-on-crime state. We have some of the toughest criminal statutes of any state. We recognize that public safety requires that for some criminals we must lock up and throw away the key.

However, in the last 30 years we have seen an incredible increase in prisoners who were sentenced to prison for other offenses where the judge and jury had decided on lesser penalties. These people would be returning after comparatively short sentences to their home communities. We recognized Texas needed a Corrections Department that emphasized public safety and correcting the behavior of prisoners. In 2005 through 2007, Texas changed its direction to make the state a smarter user of public money. Texas embarked on a policy of being both tough and smart on crime.

Texas did not start off to be the poster state for Justice Reinvestment. Justice Reinvestment is a project of The Council of State Governments that focuses on reducing corrections spending and strategies in the states. However, our state realized that we could not continue to just build new prisons. Building and staffing prisons costs too much and produces too little return for public safety. We had to do something to stop the massive drain on our revenues. In taking these steps, Republican and Democratic legislative leaders recognized that treating mental health problems, treating drug and alcoholic addiction, reducing case loads for probation and parole, encouraging specialized courts, improving juvenile justice programs, breaking

the pathway to prison in our school districts, supporting prison ministries, and supporting stronger families all could be factors in reducing our costs for prisons and jails.

The direction we have taken in Texas on criminal justice reform has reduced our prison populations, has helped reduce crime rates, has made our citizens safer, and has offered a model that will work for many states despite different demographics, budget situations and political climates. This effort is now a significant part of Justice Reinvestment. It has made Texas the model for potential cost saving and smart and tough on crime actions for other states to follow.

The American Legislative Exchange Council's (ALEC) Public Safety and Elections Task Force's Corrections and Reentry Working Group has recently approved several pieces of model legislation which can be used by other states to start or continue the process of justice reinvestment in their state. These model bills come from our experiences in Texas and from research and ideas from the Council of State Governments' Justice Center with support from the Pew Foundation and the Bureau of Justice Assistance-U.S. Department of Justice, amongst others.

The Working Group recently approved the following related model bills; the *Recidivism Reduction Act*, the



First elected to the Texas Legislature in November of 1992 and now in his ninth term, Rep. Jerry Madden is Vice Chair of the House Committee on Corrections, which he chaired from 2005 to 2009, and is a member of the Judiciary and Civil Jurisprudence Committee. Rep. Madden is a member of ALEC's Public Safety and Elections Task Force and chair of the Corrections and Reentry Working Group.

Swift and Certain Sanctions Act, the *Community Corrections Performance Measurement Act* and the *Community Corrections Performance Incentives Act*.

Recidivism Reduction Act

Includes important ideas on the implementation of evidence-based practices. The use of evidence-based practices is extremely important for legislators inter-

ested in the best use of their tax dollars. We are all interested in spending taxpayers' money primarily where we get cost savings results. The bill also includes policies and practices to help the victims of crime, encourage professional development of our state staff, and encourage data collection analysis and research to improve public safety.

Swift and Certain Sanctions Act

Requires states to deliver swift and certain responses to violations of probation and parole. It requires steps we learned were very important in Texas. Those steps require that corrections agencies have a set of graduated sanctions and rewards to respond to violations and compliance with conditions of supervi-

sion. It encourages actions like the Project Hope program in Hawaii to develop a wide range of non-prison offender accountability programs which include electronic monitoring, drug and alcohol testing and monitoring, convenient reporting centers, forfeitures, and rehabilitation interventions short of long-term prison commitment.

Community Corrections Performance Measurement Act* and the *Community Corrections Performance Incentive Act

Designed to help the legislature, executive branch, and correctional programs define and measure results to ensure we are using the taxes effectively. The legislation defines the performance measurements that are key performance

indicators. The *Performance Incentive Act* provides incentive funding for community corrections departments that produce outstanding results from their activities to improve the performance of the Community Corrections Departments.

These are the first of what may be additional free market ideas from ALEC to improve our states performance in Corrections. The prison building experiment that drove Texas corrections policy for decades has been replaced by a vision that has started paying dividends. This new strategy demonstrates that protecting the taxpayer and promoting public safety are not mutually exclusive goals, but rather a beneficial arrangement for both public safety and cost savings in all of our states. ■

ALEC Kicks Off 2010 *Rich States, Poor States* Book Tour



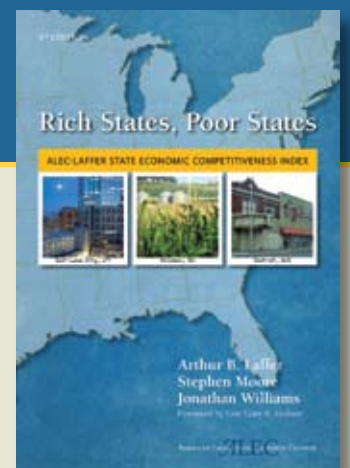
Jonathan Williams speaks on *Rich States, Poor States* at a luncheon in Springfield, IL.

To host a book event in your state in 2010, please contact Jonathan Williams: 202-742-8533 or jwilliams@alec.org

ALEC Tax and Fiscal Policy Task Force Director Jonathan Williams recently began the 2010 book tour to promote the third edition of *Rich States, Poor States: ALEC-Laffer State Economic Competitiveness Index*, which was released in early April.

On May 4, ALEC's Missouri State Chair, Rep. Ed Emery, hosted a breakfast event at the Capitol in Jefferson City, where Williams—one of the co-authors of the publication—spoke with Missouri legislators on the keys to state economic prosperity. Williams then traveled to Springfield, Illinois for a May 5 luncheon, organized by one of ALEC's newest private-sector members, the Illinois Policy Institute. The event was co-hosted by Rep. Renée Kosel—ALEC's Illinois State Chair. More than 50 attendees came to hear about ALEC's groundbreaking research on policies to improve the economic outlook in Illinois.

In 2009, Williams spoke in front of legislative and business audiences in more than 15 states to brief members on the findings from *Rich States, Poor States* and outline reforms to enhance state economic competitiveness.



National Popular Vote Would Nationalize Elections and Unravel Federalism

BY TRENT ENGLAND, Evergreen Freedom Foundation

LIBERTY AND PROSPERITY are not inevitable, not even in the United States of America. That we have enjoyed these blessings in abundance raises the question: Why?

Why has the United States so long perpetuated liberty and given rise to such startling innovation and economic growth? Part of the answer is America's unique system of federalism—we are not just united, we are also states.

Federalism is a bulwark of limited, accountable government. James Madison called the separation of state and national power a “double security ... to the rights of the people.” The Constitution, Madison wrote, “extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects.”

About a century ago, the Progressive Movement offered to replace the United States' founding principles with a new ideology of progress. More efficient government, rather than limited government, would solve social and economic problems on the grandest scales.

In 1913, the Progressives convinced Americans to change the Constitution—authorizing the federal income tax and stripping state legislatures of their power to appoint U.S. Senators. Both populist reforms enhanced national power at the expense of the states.

Today, the Progressive movement is back with another populist-sound-

ing proposal. Under the guise of making “every vote equal,” National Popular Vote (NPV) would pull the rug out from under the states.

National Popular Vote is a San Francisco-based political organization founded, chaired, and funded by computer scientist Dr. John Koza. It is also the name of Koza's plan to change how we elect the President of the United States without a constitutional amendment.

NPV would create an interstate compact where states that pass Koza's legislation agree to disregard the vote count in their state and instead appoint Electors who support the winner of the national vote.

Because the Constitution gives state legislatures power over the appointment of their state's electors, there is a chance that NPV would survive a court challenge, even though the Constitution's original intent was to allow each state to best represent the will of its own citizens or political leaders.

The compact would take effect if passed by states with a total of 270 or more electoral votes—a majority, and thus enough to control who becomes president. So far, the legislation has passed in Hawaii, Illinois, Maryland, New Jersey, and Washington.

NPV would leave the Electoral College structure in place, but eliminate its effects and benefits. The Electoral College nationalizes presidential politics

The genius of the Electoral College is that it turns the 50 states into the equivalent of 50 watertight compartments on an ocean liner: a problem in one compartment can be isolated and then fixed, before the whole thing sinks.

while localizing election processes. It forces candidates to build broad, geographically balanced coalitions, while making states the key players in election administration.

Part of the genius of the Electoral College is that it turns the 50 states into the equivalent of 50 watertight compartments on an ocean liner: a problem in one compartment—or state—can be isolated and then fixed, before the whole thing sinks. NPV would make American presidential contests the electoral equivalent of the Titanic.

NPV would also allow a candidate to win without any sort of majority, encouraging more candidates to run and thus ensuring that future Presidents would be elected with smaller and smaller pluralities (for example, under NPV you might have five serious candidates and the winner could receive less than a third, or even less than a quarter, of the national vote).

Because NPV is an end-run around the constitutional amendment process, it also cannot create an authentic national election with national standards. It fails to establish standards for which candi-



Trent England is director of Constitutional Studies and the Save Our States Project at the Evergreen Freedom Foundation, a member of ALEC's Public Safety and Elections Task Force.

dates are on the ballot, who gets to vote, how votes are counted, and how they might be recounted. (It does, however, specifically provide for a perfect tie in the national vote.)

Yet the worst result of NPV would likely be the increasing nationalization of election policy and administration. The inherent instability of NPV would require at least further federal tinkering; it would likely precipitate the wholesale abandonment of the Electoral College.

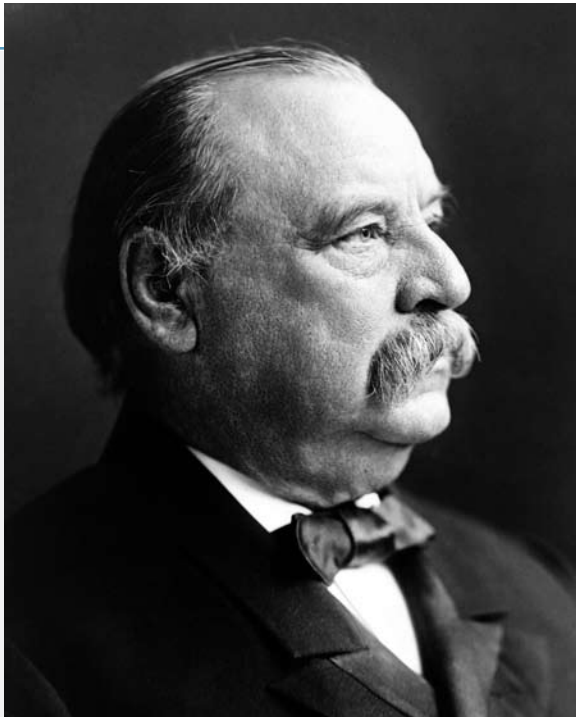
And the bottom line is this: national election administration means presidential appointees running presidential elections.

NPV is a clever political tactic for Electoral College opponents frustrated by the hard work required to change the Constitution. Clever tactics, however, are often bad public policy. Dr. Koza's NPV plan would endanger election integrity and undermine our system of states.

The Electoral College is an integral

part of the structure of constitutional federalism. It recognizes states as states. It also creates incentives that stabilize and moderate American politics, and it enhances the integrity of presidential elections.

The Electoral College—by recognizing and respecting the unique roll of states in our federal system—is part of the reason the United States has so long enjoyed the blessings of liberty and prosperity. ■



What Grover Cleveland Learned at the Electoral College

Who won the election of 1876? The race was so close that South Carolina, Florida, and Louisiana each provided two dueling slates of electoral votes. A special congressional commission sorted things out in favor of Republican candidate Rutherford B. Hayes, though New York Governor and Democratic nominee Samuel Tilden probably received more popular votes.

That election began a series of close contests that some claim were failures of the Electoral College, but others recognize as its greatest successes. Republican James A. Garfield won the election of 1880, but it was another squeaker—

probably the closest U.S. presidential election in history, with a national vote margin of just 9,070 votes and six states decided by two percent or less. Democrats came back in 1884 with another New Yorker, Grover Cleveland, and won the presidency for the first time after the Civil War.

During this post-Civil War era, the Electoral College provided a powerful disincentive to political regionalism. It forced Democrats to reach out to the North just as Republicans reached out in the South. The presidential election process made building a national coalition more important than regional popularity.

Grover Cleveland and the Democrats learned this lesson the hard way in 1888. Cleveland lost reelection even while winning the most national votes. Tremendously popular in the deep South, he won 82 percent of the vote in South Carolina and over 70 percent in Mississippi, Louisiana, and Georgia. Cleveland lost his home state of New York.

Under a National Popular Vote system, Cleveland's intense regional support would have returned him to the White House. Instead, the Electoral College forced Cleveland and the Democrats back to the drawing board.

In 1892, Cleveland returned with greater national support and won back the presidency, becoming the only person to serve non-consecutive terms in that office.

Would America—or the Democratic Party—have been better off if Grover Cleveland had won the presidency in 1888?

The Electoral College prevents regional candidates from becoming president; it makes candidates and political parties reach farther and include more diverse groups of people in their coalitions.

The U.S. presidency is probably the greatest electoral prize in the world. Yet even under intense pressure and narrow margins, the Electoral College has time and again produced peaceful transfers of power and clear winners capable of governing these United States.



Getting Corrections Policy Right

10 Tips for Tough Budget Times

BY MARC LEVIN, Texas Public Policy Foundation

Americans are increasingly recognizing that public policies must not only be tough on crime, but also smart so that government is not too tough on taxpayers.¹ At a time when many priorities are competing for a smaller pool of funds, policymakers across the nation are looking for cost-effective strategies to reduce crime, restore victims, and reform offenders so that they can be productive members of society, helping to pull the wagon rather than riding in it.

Texas' recent corrections reforms redirected a small share of funds that would otherwise have gone for new prisons and reinvested them into less costly crime-fighting programs that deliver more public safety bang for the buck. From 2004 to 2008, the Lone Star state's crime rate per 100,000 residents declined 10.8 percent while the incarceration rate dropped 9.2 percent. Also, the number of crimes alleged against parolees has declined by more than 1,000 from 2007 to 2008, as parole and work-force agencies have increased the use of graduated sanctions, implemented an instant drug test followed by immediate referrals to treatment, and enhanced

parolee job training and placement.

Texas is not alone. Connecticut has pursued a similar strategy of strengthening the front end of the criminal justice system instead of building more prisons and recently was able to close a prison, thereby saving \$3.4 million, due in part to declining crime.

Since Connecticut began its justice reinvestment initiative in 2003 to strengthen probation supervision and treatment, more offenders are successfully completing their probation and the index crime rate declined 8.2 percent from 2003 to 2008.²

The trend in Texas and Connecticut in recent years of both lower crime and incarceration rates went nationwide in 2009. After 38 straight years of increases in state prison populations, state prison populations dropped 0.4 percent in 2009 at the same time the violent crime rate fell 5.5 percent and the property crime rate fell 4.9 percent.³

By keeping 10 key concepts in mind, policymakers can achieve further gains



Marc Levin is the director of the Center for Effective Justice at the Texas Public Policy Foundation, a member of ALEC's Public Safety and Elections Task Force.

for public safety, victims, and taxpayers.

Criminal justice is different from many other policy areas because there is clearly a legitimate and vital role for government; therefore, public safety must be prioritized over non-core governmental functions. When one person harms another by violating a criminal law, only the government has the authority to determine guilt, hold the offender accountable, and restore the victim. Particularly when it comes to serious and/or chronic violent and sexual offenders, there is little dispute that incarceration does one thing well—protect the public by incapacitating these offenders for long periods. Just as importantly, the criminal justice system, and particularly the probation system which handles the greatest number of offenders, must ensure victims receive restitution and, whenever possible, reform offenders, most of whom are non-violent.

Criminal justice agencies must be held accountable just like other government programs. While performance measures and accountability are often discussed in areas such as education, too often they receive short shrift in criminal justice, though no goal is of greater importance than public safety. For the prison, probation, and parole systems, policymakers must insist that benchmarks such as the rate of re-offending and serious re-offending, victim restitution collected, and offender employment rate be measured and reported.⁴ Furthermore, funding should be based not solely on the number of individuals incarcerated or supervised as is currently typical, but partly on the results achieved. In 2008, Arizona lawmakers enacted Senate Bill 1476 that gives local probation departments a share of the savings to the state from fewer probationers going to prison if they reduce both the number of their probationers revoked to prison and the number convicted of

new crimes. There are additional incentives for increasing restitution collections, probationers' employment rate, and the percent of probationers who pass drug tests.⁵

Criminal justice spending can be trimmed, but cuts must be made in the right places so that public safety is maintained or enhanced. On average, states spend 88 percent of their corrections budgets on prisons.⁶ Therefore, the greatest savings to be gained are typically through closing unneeded prisons by diverting more appropriate, non-violent offenders to probation and other alternative sanctions. Yet New York, for example, has kept partly empty prisons fully staffed simply as government jobs programs.⁷ More than twice as many offenders are on probation or parole as are in prison, though these systems account for only 12 percent of the typical state corrections budget.⁸ In many states, each county has their own probation department and bears some or all of the cost. Accordingly, there may be an incentive for local jurisdictions to revoke probationers to prison for a rules violation—not a new offense—rather than place them in a more intensive probation supervision program, in a substance abuse or mental health treatment program, or even in county jail for a brief period because the revocation shifts the cost and headache to the state. While policymakers should seek to identify efficiencies in the probation system, budget policies that result in increased caseload sizes or reduce the capacity of treatment and alternative sanctions programs may lead to much higher overall costs by increasing prison revocations.

Gather data on who is entering prison and why, as well as sentence length. Improving corrections policies requires basic information that is often elusive. Here are some key questions to ask:

- What percentage of inmates are non-violent offenders? How many offenders enter prison in your state for low-level drug possession?
- What percentage of these offenders had no prior convictions for a property, violent, or sex offense? How long is their prison sentence on average?
- What percent of probationers and parolees sent to prison are revoked solely for rules violations, not a new crime, and how long is their average prison term?
- Are some counties over-utilizing the prison system for low-risk, non-violent offenders? Creating a funding incentive system that allows counties that reduce their use of prisons for such offenders to keep part of the savings for community-based corrections programs can be a win-win for public safety and state taxpayers.

Ensure that all bills that create new crimes or enhance penalties have accurate fiscal notes. Many states have a process for evaluating pending legislation to determine if it will result in costs to state or local taxpayers. Sometimes efforts to get tougher on offenders through creating more crimes and enhancements can be too tough on taxpayers. Consider that every prosecution requires the valuable time of prosecutors, judges, and, in many cases, appointed counsel for indigent defendants paid for by taxpayers, along with the cost of whatever sentence is imposed. Too often, fiscal notes don't account for many of these actual costs.

Examine less costly alternatives to the traditional criminal justice process such as victim-offender mediation. In a mediation, the victim and offender reach a binding agreement that typically requires restitution and community service. If the offender fully performs the agreement, the case is not referred for prosecution. Mediation is often used in

property offense cases, particularly for first-time offenders, and must be chosen by both the victim and the offender, since the offender is required to take responsibility for his conduct. Statutes authorizing mediation have been enacted in 14 states.⁹ Restitution agreements are fulfilled in 89 percent of cases whereas most court-ordered restitution is never collected.¹⁰ A multi-site study found that 79 percent of victims who participated in mediations were satisfied, compared with 57 percent of victims who went through the traditional court system.¹¹ In mediation programs in the U.S. and Canada, victims who went through mediation were more than 50 percent less likely to express fear of re-victimization than victims who participated in the traditional adversarial process.¹² Mediation can also reduce recidivism as the offender often realizes the harm they have caused, develops empathy, and, without a criminal record, is better able to maintain or obtain employment. A meta-analysis found that 72 percent of programs lowered recidivism.¹³ Mediation costs as little as \$75 per case, far less than the traditional system.

Utilize risk and needs assessments.

Quantitative instruments that evaluate the individual risk and needs factors of each offender can help achieve recidivism reduction and efficiency by matching risk and needs to the correctional strategy. Accordingly, probationers and parolees who pose a greater risk receive the most supervision, while avoiding counterproductive over-supervision of low-risk offenders. Research has found that when probation departments focus a greater share of their resources on high-risk offenders, these offenders are less likely to recidivate and be revoked to prison and that, conversely, over-supervising low-risk offenders can increase recidivism.¹⁴ For example, for an employed first-time drunk driver with no other risk factors, coming to the proba-

tion office a couple times a week during business hours may do more harm than good at the same time it wastes taxpayers' money. The *Illinois Crime Reduction Act* passed in 2009 requires the system-wide use of risk and needs assessment tools that will be integrated electronically throughout an offender's involvement in the system, eliminating duplication in the administration of these instruments.¹⁵ For states with a parole system, risk assessment instruments can assist in parole decision making by helping to identify those individuals who are least likely to re-offend. It is vital that any sort of parole or earned release program include such screening to identify the appropriate, low-risk inmates, as well as evidence-based reentry policies that have been demonstrated to increase the success rate in the difficult transition from incarceration to a productive, law-abiding lifestyle.¹⁶

Review inmate health care costs and consider alternatives for geriatric inmates who no longer pose a danger to the public.

Federal courts have held that inmates have a constitutional right to health care, which after staffing is the second largest component of incarceration costs. States vary widely in spending on inmate medical care, as California spends more than twice as much as Texas.¹⁷ In Texas alone, there are 4,252 inmates age 61 or over who consume a highly disproportionate share of health care costs.¹⁸ Some states have implemented or are considering policies to identify elderly inmates who no longer are a risk to public safety and create a special parole process, including possible transition to a nursing home facility where most of their health costs would be covered through Medicare, Medicaid, or veterans' benefits.¹⁹ Incarcerated individuals are ineligible for these programs.

Rethink sentencing laws to determine whether some of these poli-

cies are requiring that funds be used for incarceration which could instead be used in a way that produces more public safety for every dollar spent or returned to taxpayers.

Sentencing statutes that require mandatory minimum prison terms, particularly for non-violent offenses, should be subject to particularly close scrutiny to evaluate the cost and benefits. The late Supreme Court Chief Justice William Rehnquist said mandatory minimums are "perhaps a good example of the law of unintended consequences."²⁰ Americans for Tax Reform President Grover Norquist recently noted, "Viewed through the skeptical eye I train on all other government programs, mandatory minimum sentencing policies are not worth the high cost to America's taxpayers." Cookie-cutter mandatory minimums prevent judges and juries from crafting a just sentence based on the individual facts of the case. Since 2009, New York, Rhode Island, Minnesota, and New Jersey have either repealed or significantly scaled back their mandatory minimums applicable to drug offenders.

Avoid the temptation to resort to warehousing.

In-prison educational, treatment, and vocational programs are vulnerable in tight budget times since inmates are understandably not the most popular constituency. But these programs aren't primarily about them; they are about those of us who will be living among the 95 percent of inmates who are ultimately released. To be sure, all prison programs should be closely scrutinized to determine whether they reduce recidivism and those that are not cost-effective should be revised or eliminated. However, a meta-analysis of the best existing empirical research finds that in-prison vocational programs where inmates earn certificates to enter a trade upon release produce the greatest net benefit of any correctional program.²¹ The study further found that

in-prison literacy and basic education programs as well as drug treatment programs also produce greater savings to victims and taxpayers in crime reductions and re-incarceration than their upfront cost.²² In states with parole, there is anecdotal evidence that decision makers are more likely to approve an inmate for release who has completed such a program, which can result in fur-

ther savings. Policies that divert appropriate non-violent offenders from prison and into evidence-based probation programs can generate savings within the corrections budget. That may then leave sufficient funds for programs through which those who require incarceration spend that time doing what it takes to reenter society as an asset rather than as a menace.

While incarceration will always be necessary for some offenders, there is growing evidence and support for policies that recognize that prison is not the answer for every problem and that emphasizing other strategies to hold offenders accountable and restore victims can achieve greater results for every taxpayer dollar spent. ■

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Putting an End to Prison Rape

BY PRISON FELLOWSHIP MINISTRIES

RAPE IS A VIOLENT CRIME and no one should be subjected to it! No criminal sentence carries with it the punishment of rape. Yet prisoners are raped in America's prisons with great frequency. The Bureau of Justice Statistics (BJS) found that 4.5 percent of inmates—more than 60,000—had been sexually assaulted in the previous 12 months. BJS also found that among juvenile detainees the rate was almost 12 percent, or one in eight. It is a scandal that people housed in government facilities are not safe from sexual attack.

The BJS surveys showed, however, that not all prisons are unsafe. Many prisons have taken steps to reduce incidence of prison rape. Prison Fellowship's Pat Nolan served on the National Prison Rape Elimination Commission, which spent several years listening to testimony from many dedicated corrections officials who have made stopping

prisoner rape a priority—and done so successfully. Additionally, the Commission heard from victims who spoke of the ways in which they were left vulnerable to predators and who were given no assistance in recovering from their rape, and corrections officials about their practical difficulties encountered in protecting the inmates in their facilities.

The Commission used these real life experiences to form standards that will guide prison officials as they work to attain zero tolerance for prison rape as called for in the *Prison Rape Elimination Act* (PREA). For these standards to become law, they must be adopted by U.S. Attorney General Eric Holder by the end of June 2010.

Sadly, the Department of Justice (DOJ) has proposed that the Attorney General ignore the statutory deadline in order to undertake an entirely new process of consideration of the standards,

with hearings and studies that will cover the same ground that the Commission has already considered.

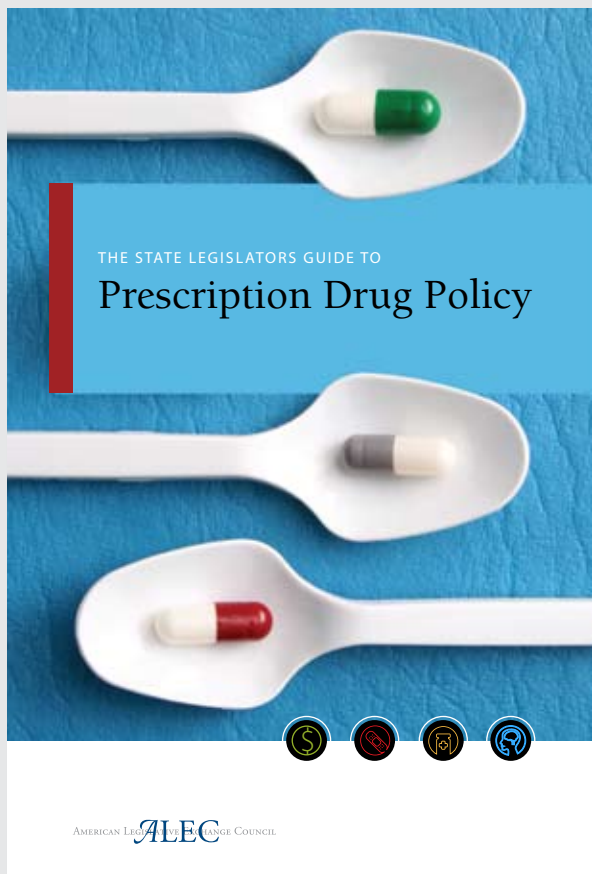
These tough standards can make a real dent in the problem. On balance, the standards proposed by the Prison Rape Elimination Commission are simply a matter of common sense: they advise strict monitoring of inmates, zero tolerance of sexual assault, and better reporting procedures.

Many who originally denied that rapes were occurring in prisons now minimize the problem of prison rape and exaggerate the cost of preventing it. Given that over \$68 billion is spent on corrections each year and that just one state's prison system recently paid \$100 million to settle claims of female inmates who were raped by their guards, the expenses of implementing the Commission's standards is minimal. The \$100 million settlement would have paid for a lot of prevention. Who can put a price tag on the physical and psychological damage of being raped, knowing your custodians could have prevented it?

Because ALEC has amassed an unmatched record of achieving groundbreaking changes in public policy, the Board has recently adopted a Resolution in Support of the National Prison Rape Elimination Commission Standards. If Attorney General Holder, whose Department will oversee the standards' implementation, does not adopt these standards quickly they will be delayed by the bureaucratic system for at least another year. California and Oregon serve as positive examples and have already adopted these practical standards.

Winston Churchill said, "The treatment of crime and criminals is one of the most unfailing tests of the civilization of any country." Until prisoners in the United States are safe from being raped, we will have failed this test of civilization. ■

Prison Fellowship Ministries is the nation's largest prison ministry and is a member of ALEC's Public Safety and Elections Task Force.



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Corporate Involvement in Political Campaigns

BY SEN. JASON GANT (SD)

On Jan. 2, 2010, the United States Supreme Court issued a historic ruling in the case of *Citizens United v. Federal Election Commission* with regard to political communications by corporations. The Justices stated that because the First Amendment applies to corporations they should not be completely prohibited from being involved in political campaigns. This decision does a lot to change the political landscape in South Dakota.

Although the State of South Dakota won't now have the ability to decide whether a corporation should be allowed political speech, we have retained the responsibility of ensuring openness and transparency in this new time. To that end, I authored an amendment to House Bill 1053 and current South Dakota law to clarify this emerging campaign finance issue during the 2010 legislative session.

I have long believed that the residents of South Dakota should be keenly aware of where political contributions come from. With the Supreme Court's ruling as guidance, I was determined to ensure that the public knew who was funding corporate political speech. I started drafting with the premise that all corporate political speech would include the language of disclosure that has become commonplace throughout the states: "Paid for by . . ." South Dakotans are comfortable with this language and it was important to me to keep that disclosure.

My amendment also ensured corporations are held to the same open and transparent standards as candidate campaign committees or political action committees or even political parties. It only makes sense that these groups should be treated equitably.

In order to avoid the mistakes of our past, I also included language addressing the ownership of corporations paying for political speech. I wanted to be as sure as possible that all owners were listed with the Secretary of State, but I

wanted to keep the process least onerous on South Dakota corporations. The result is a simple filing requirement for our domestic corporations since they are already required to file their articles of incorporation and annual reports with the Secretary of State.

Further, I required that if another corporation or LLC was an owner of the corporation paying for the political speech, that their corporate information would be filed with the Secretary of State. This helps to keep closed loopholes that might have been opened and helps ensure that different corporations or LLCs or LLPs aren't created to try and hide their true intentions. Foreign

We have retained the responsibility of ensuring openness and transparency in this new time.

corporations would also be required to comply with the same type of disclosures, although they would have stricter time and financial requirements.

The final result of all this work is that South Dakota will comply with federal precedent and allow corporations to be involved in political activities, but that those corporations will be held to the same standard as all other groups involved in political campaigns.

I believe it is paramount to ensure that political campaigns in South Dakota are open and transparent. I trust



South Dakota Sen. Jason Gant was elected to the State Senate in the fall of 2004 and re-elected in 2006 and 2008. Sen. Gant is a member of ALEC's Public Safety and Elections Task Force.

that this new law on corporate political speech will do just that. ■

Note: Sen. Gant's House Bill 1053 of the 2010 Legislative Session passed the Senate and House of Representatives unanimously and the Governor signed the bill into law on March 29, 2010.

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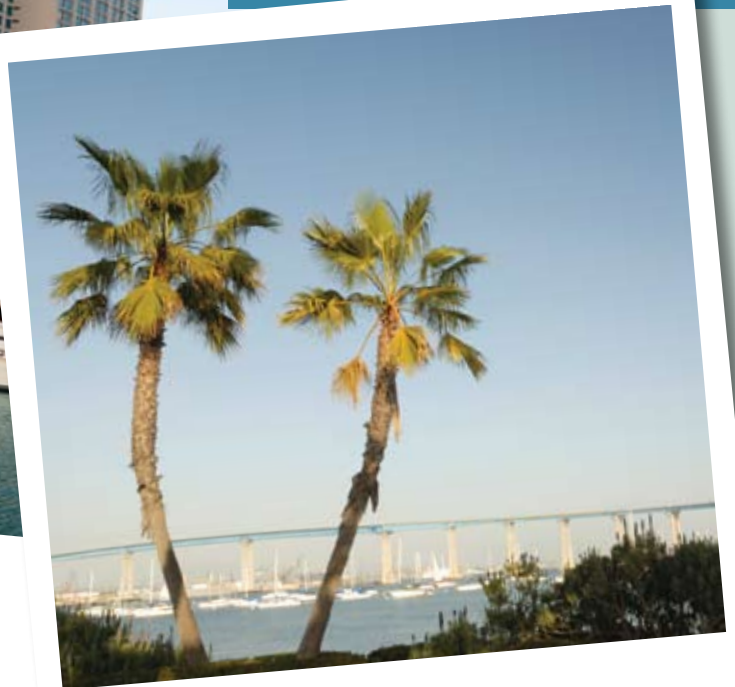


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A Tangled Web

Moving from “Open and Free” to “Safe and Secure”

BY DEBORAH TAYLOR TATE, Free State Foundation

FOR THE PAST FOUR YEARS, government agencies, communications law firms and corporate public affairs departments have waged a nationwide PR war over an esoteric phrase that most Americans have paid very little attention to: “net neutrality.”

The amount of time and money spent on this discussion is inestimable, with no end in sight. Even after a recent court decision blasting the FCC’s decision to regulate how broadband companies can manage their own networks—and even though 53 percent of Americans oppose government regulation of the Internet—a majority of the present FCC is dead set to continue.

The phrase “net neutrality” itself, even after four years, has no clear definition. But in essence, as proposed by the FCC, it means the agency would reverse successful policies utilizing a “light regulatory touch” and begin regulating the Internet much like old-fashioned monopoly telephone service.

The proponents have used a simple phrase to define the debate: “open and free.” “Open and free” sounds really good. However, no American really believes anything in life is “free” anymore—certainly not in the context of an incredibly sophisticated global Internet and high-end devices being unveiled almost daily. Consumers pay for computers, cell phones, wireless devices, Xboxes, BlackBerrys, laptops, and now

the new iPad. In addition, most pay a monthly subscription to connect these devices to a broadband provider. A family with the most basic plan might spend over \$1,000 annually. In legal terms, “free” is a red herring; it doesn’t exist for most consumers.

Rather than focusing on something that just isn’t real, or a regulation the court has already struck down, government should be concentrating on words every American can understand: “safe and secure.” Americans know the Internet is not “free,” but most of us would like to know that our personal information—from financial and banking transactions to data posted on “secure” websites—is indeed safe and secure. More than half of American parents are concerned about the safety and security of their children online.

Businesses want to know their products and creative content will be delivered safely and securely. Their financial viability depends on it. We provide our children cell phones so that in an emergency, they can be safe. As millions more of us go online with multiple devices, most Americans understand that congestion may occur—just like a traffic jam on a highway. Those enormous 18-wheelers pay more and fund more highway maintenance because they cause more damage, carry a bigger load, and even have to stop and be weighed periodically.

Similarly massive movie downloads and video gamers may cause an online traffic jam, yet up until now, they have not had to pay for causing it. In fact, most light Internet drivers would probably like the option of paying only for what they use while heavy users pay for traffic jams or damage to the Internet superhighway. We all want to ensure that a doctor in the midst of delicate tele-surgery would have confidence that the highest quality of dedicated bandwidth would allow the safest possible outcome for a patient.

On the other hand, a grandmother who e-mails periodically, shops online once a month and looks at baby pictures should probably not be paying the same as a 24/7 so-called bandwidth hog. But whether you are a grandmother, a small business or a multinational corporation, you should want the government working to ensure the safety and security of personal data and the protection of our children, and that we continue to have a robust, efficient and ever-expanding broadband architecture.

Without evidence of any real threat of discriminatory treatment by Internet providers that harms consumers, the effort to adopt net neutrality regulations is a troublesome distraction. Our leaders should be concentrating on negotiating global agreements to reduce cyber threats, increasing access to spectrum, establishing policies that encourage infrastructure investment to meet growing demands, creating incentives to encourage innovation, and ensuring we have a digitally educated and empowered citizenry.

All of this would result in an overall positive economic impact, more jobs and a cyber ecosystem that is safe and secure for America, her businesses and her citizens. ■

Deborah Taylor Tate, is a distinguished adjunct senior fellow at the Free State Foundation, and a former commissioner of the Federal Communications Commission.

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The Beach House Bailout

Another Terrible Idea from the Folks Who Brought You Obamacare

BY ELI LEHRER, Heartland Institute

THOSE WHO THINK the federal government needs even more debt and more responsibilities will love Florida Democrat Ron Klein's *Homeowners' Defense Act*. Everyone else should treat the bill—currently moving forward in the House of Representatives—with a great deal of skepticism. The proposal, intended to reduce homeowners' insurance premiums, turns the federal government into the insurer of last resort for many of the most disaster-prone homes in the country. Since the great bulk of the bill's potential beneficiaries and current advocates live on or near hurricane-prone beaches, it's quite fair to think of the bill as a bailout for them—a beach house bailout.

The *Homeowners' Defense Act* sets up a Fannie Mae-style "private" consortium, with a board made up of government officials, to underwrite catastrophic natural disaster losses for private homeowners' insurers, requires Treasury to lend money to states that suffer natural catastrophes, and provides loan guarantees to a Florida hurricane catastrophe fund and to California's government-mandated earthquake insurer. According to the bill's supporters—Klein, an assortment of other politicians, and a small handful of big insurance companies—all of this would cost taxpayers nothing, as the legislation requires the consortium to break even and states to pay back loans they receive.

Attractive as it may seem on paper,

the idea cannot possibly work, because it violates the risk-pooling principles at the heart of insurance. "Primary" insurance companies like Allstate, Nationwide, and CNA buy insurance of their own, called reinsurance, to manage and pool risk. The reinsurers that sell this type of coverage invariably operate around the globe. A large reinsurer like Warren Buffett's Berkshire Hathaway might simultaneously underwrite the risk of an industrial accident in Japan, a flood in the U.K., a hurricane in Florida, and a cyclone in Australia. Since there's almost no chance that all of these events will happen at the same time, the reinsurer can profit from the premiums it earns on one type of coverage even when it pays out mammoth claims on another.

All other things being equal, a broader, more diversified pool results in lower premiums. Klein's bill actually narrows down the pool by encouraging states to concentrate risk here in the United States under the aegis of fed-



Eli Lehrer is national director of the Center on Finance, Insurance, and Real Estate at the Heartland Institute. Lehrer is advisor to ALEC's Commerce, Insurance, and Economic Development and Public Safety and Elections Task Forces. This article is reprinted with permission of "The Weekly Standard," where it first appeared on May 10, 2010.

eral guarantees. Thus, to break even, the government would have to charge higher premiums and interest rates than the private sector for any coverage or guarantee it provides. This means that if it hopes to sell any coverage at all, the government will have to under-price it and thus leave taxpayers with nearly limit-less liabilities.

The federal government's one similar existing effort—the National Flood Insurance Program—shows how Klein's proposal would probably work in practice. Since it began selling homeowners' flood coverage in 1968, the flood program has repeatedly violated the statutory mandates that it break even on most coverage it sells. It has run up debts of around \$19 billion and, even after a four-year run of very mild flood seasons, has made almost no progress in paying them back. Congress has always lifted debt caps and spending limits attached to the flood program since they get exceeded following major disasters, when the only other choice would be to let the program run out of cash. As a

of the bill, while environmental groups like the National Wildlife Federation and Sierra Club have joined forces with small-government bedfellows, including Grover Norquist's Americans for Tax Reform, Dick Armey's FreedomWorks, as well as a larger number of insurers and a variety of insurance industry groups, to oppose it.

The fundamental unfairness of the bill has attracted centrist organizations like the American Consumer Institute and Taxpayers for Common Sense to join the opposition as well. In fact, two parts of the bill—intended to provide a federal backstop for existing state catastrophe funds—would benefit only Florida and California. (Other states don't have the legal structures to receive the guarantees the bill provides.) Likewise, the main beneficiaries would be people who live near the beach, and, as Dan Sutter of the University of Texas Pan-American has shown, coastal counties in hurricane prone states are generally wealthier than inland counties. In Klein's hometown of Palm Beach, in fact, the state of Florida

ACTION TAKEN

ALEC's Commerce, Insurance, and Economic Development Task Force passed *A Resolution Relating to Residual Markets and Reinsurance Funds* which opposes a federal takeover of the reinsurance industry or the creation of any new catastrophic fund that would be in direct competition with insurance or reinsurance provided by the private-sector.

The Commerce, Insurance, and Economic Development Task Force also sent an Issue Alert on H.R. 2555 to the U.S. House of Representatives opposing the legislation which would increase the costs of homeowners' insurance and would force states to bailout other states.

Nearly everyone who has taken a look at the National Flood Insurance Program agrees that the federal government will eventually have to forgive the debt.

result, nearly everyone who has taken a look at the program agrees that the federal government will eventually have to forgive the debt.

Like the flood program, furthermore, the catastrophe insurance programs Klein favors would lower insurance costs and decrease credit risk for developers and real estate agents interested in building in currently wild coastal and floodplain areas. (Building in these areas both puts more people in harm's way and, since wetlands absorb storm surge from hurricanes, potentially increases inland damage.) As a result, real estate agents and homebuilders have joined some insurers in support

provides subsidized insurance through the Florida Citizens Property Insurance Corporation for waterfront mansions worth up to \$2 million—many of them second homes.

While some California and Florida Republicans support Klein's effort, most of its supporters come from the Democratic caucus mainly because the House Democratic leadership—interested in boosting the vulnerable Klein—has gotten strongly behind the bill. On the other hand, a similar bill to add wind coverage to the national flood insurance program went down to a 74-19 defeat in the Senate in 2008. And although Barack Obama supported a different

version of Klein's measure on the campaign trail and in the Senate, his administration has come out against the wind proposal and remains silent on Klein's current bill.

For all of the manifest flaws of Klein's proposal and its uncertain future in the Senate, it passed out of committee and will move towards the House floor. The bill presents a classic case of a public policy with diffuse, difficult-to-calculate costs and concrete, easy-to-measure benefits. On one hand, the U.S. Treasury will end up owing billions of dollars (that it will eventually have to collect in taxes)—but only after a major storm hits. On the other hand, the proposal will deliver immediate increases in profits to some insurance companies, open up new opportunities for developers, and shave a few dollars off the insurance premiums for owners of hazard-prone properties—i.e., beach houses.

The Homeowners' Defense Act is one of the very worst pieces of public policy with serious support in the current Congress, and that's saying something. ■

A nighttime photograph of the Washington Monument, which is brightly lit and stands out against a dark blue sky. A thin white horizontal line is drawn across the top of the monument, passing through the text 'Natural gas costs this much to produce electricity.' and 'Coal costs this much.'

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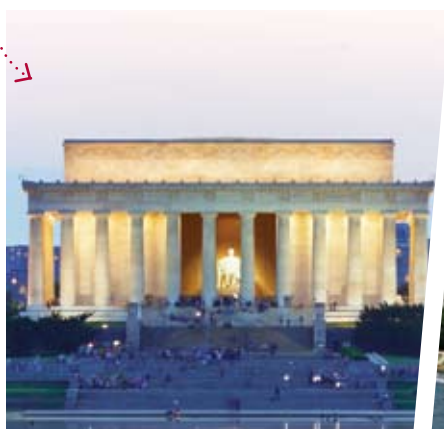
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